S.B. CIVIL WRIT PETITION NO.4371/2002

Ugam Nath Vs. State of Raj. & ors.

Date : 6.4.2005

HON'BLE MR. PRAKASH TATIA, J.

Mr. P.S. Bhati, for the petitioner.

Mr. Usman Gani, for the respondents.

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Heard learned counsel for the parties.

It appears that the petitioner preferred writ petitions earlier also being S.B.Civil Writ Petition No.2275/2000 and 160/2002 and the same were disposed of by this Court.

Writ petition no.2275/2000 was disposed of on 14.2.2001 as in that writ petition, the certified copy of statement of the bank account was delivered to learned counsel for the petitioner upon which it was stated on behalf of the petitioner that the petitioner has some proposal for consideration of the Bank. This Court observed that the petitioner may submit the proposal in writing before the respondent bank which be considered and pass appropriate order.

In second writ petition no.160/2002, learned counsel for the petitioner submitted that he is ready to clear the entire dues standing against him. On this, this Court observed that in case, the petitioner deposits the entire

dues, the respondent Bank will consider the question of releasing his vehicle. With these observations, this writ petition was disposed of on 14.1.2002.

According to learned counsel for the petitioner, the petitioner thereafter submitted several representations and still ready to pay the entire dues but the respondent bank is not re-conveying the property to the petitioner.

It appears that the due sought to be recovered from the petitioner have been recovered by selling the land as well as tractor of the petitioner and about 5 years have already passed to the recovery proceedings. Not only this, but the petitioner was given one opportunity to pay the entire dues and the respondent Bank was directed to consider the question of releasing his vehicle. No order was passed by this Court in his earlier writ petition no.160/2002 about re-conveying the land of the petitioner.

It appears that after such a belated stage, it will not be possible for re-conveying either the land or vehicle to the petitioner because third party rights have already accrued and the bank itself cannot unilaterally take the land or vehicle from the persons to whom the property was disposed of by them for recovery of the dues.

There may be certain allegations levelled by the petitioner but those disputed questions of fact cannot be examined in writ jurisdiction and in the facts of this case

in third round of litigation.

In view of the above discussion, this writ petition, having no merit, is hereby dismissed.

(PRAKASH TATIA), J.

S.Phophaliya